

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION VII
726 MINNESOTA AVENUE
KANSAS CITY, KANSAS 66101

IN THE MATTER OF:

JASPER COUNTY/TRI STATE
MINING AREA SITE,
Jasper County, Missouri

GOLD FIELDS MINING CORPORATION

New York, New York,

ASARCO, INC.
New York, New York,

NL INDUSTRIES, INC.
Houston, Texas,

ST. JOE MINERALS CORPORATION
Irvine, California

SUN COMPANY, INC.
Radnor, Pennsylvania

BLUE TEE CORPORATION
New York, New York,

E.I. DUPONT DE NEMOURS AND
COMPANY, Wilmington, Delaware,

USX CORPORATION
Trenton, New Jersey

BROWN & ROOT, INC.
Houston, Texas,

Respondents.

Proceeding under Section 106(a)
of the Comprehensive
Environmental Response, Compensation
and Liability Act as amended,
42 U.S.C. §§ 9606(a).

Docket No. VII-94-F-0003

UNILATERAL ADMINISTRATIVE

ORDER

40114096



SUPERFUND RECORDS

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I. JURISDICTION AND GENERAL PROVISIONS

1. This Unilateral Administrative Order ("Order") is issued pursuant to the authority vested in the President of the United States by Section 106(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. § 9606(a), as amended ("CERCLA"), and delegated to the Administrator of the United States Environmental Protection Agency ("EPA") by Executive Order No. 12580, January 23, 1987, 52 Federal Register 2923, and further delegated to the Regional Administrators by EPA Delegation Nos. 14-14-A and 14-14-B.

2. This Order is issued to Respondents, Blue Tee Corporation; Brown and Root, Inc.; USX Corporation; E.I. DuPont de Nemours and Company; Gold Fields Mining Corporation; ASARCO, Inc.; Sun Company, Inc.; NL Industries, Inc.; and St. Joe Minerals Corporation (herein collectively "Respondents"). This Order pertains to the Jasper County/Tri-State Mining Area Site, located in Jasper County, Missouri (the "Site"). This Order requires the Respondents to conduct removal actions described herein to abate an imminent and substantial endangerment to the public health, welfare or the environment that may be presented by the actual or threatened release of hazardous substances at or from the Site.

3. EPA has notified the State of Missouri of this action pursuant to Section 106(a) of CERCLA, 42 U.S.C. § 9606(a).

II. PARTIES BOUND

4. This Order applies to and is binding upon Respondents and Respondents' successors and assigns. Any change in ownership or corporate status of Respondents including, but not limited to, any transfer of assets or real or personal property shall in no way alter Respondents' responsibilities under this Order.

Respondents are jointly and severally liable for carrying out all activities required by this Order. The work undertaken by Respondents shall be coordinated among the Respondents.

Compliance or noncompliance by one or more Respondent with any provision of this Order shall not excuse or justify noncompliance by any other Respondents.

5. Respondents shall ensure that their contractors, subcontractors, and representatives receive a copy of this Order and comply with this Order. Respondents shall be responsible for any noncompliance with this Order.

III. DEFINITIONS

6. Unless otherwise expressly provided herein, terms used in this Order which are defined in CERCLA or in regulations promulgated under CERCLA shall have the meaning assigned to them in the statute or its implementing regulations. Whenever terms listed below are used in this Order or in the documents attached to this Order or incorporated by reference into this Order, the following definitions shall apply:

a. "Day" shall mean a calendar day unless expressly stated to be a working day. "Working day" shall mean a day other

than a Saturday, Sunday, or Federal holiday. In computing any period of time under this Order, where the last day would fall on a Saturday, Sunday, or Federal holiday, the period shall run until the end of the next working day.

b. "MDNR" shall mean the Missouri Department of Natural Resources.

c. "National Contingency Plan" or "NCP" shall mean the National Oil and Hazardous Substances Pollution Contingency Plan promulgated pursuant to Section 105 of CERCLA, 42 U.S.C. § 9605, codified at 40 C.F.R. Part 300 et seq., as amended.

d. "Paragraph" shall mean a portion of this Order identified by an Arabic numeral, a letter of the alphabet or a lower case Roman numeral.

e. "Parties" shall mean EPA and the Respondents.

f. "RI/FS" shall mean the Remedial Investigation and Feasibility Study being conducted by the Respondents pursuant to an Administrative Order on Consent issued by EPA on August 2, 1991.

g. "Section" shall mean a portion of this Order identified by a Roman numeral and includes one or more paragraphs, unless used to refer to a statutory or regulatory section.

h. "Site" shall have the same meaning as "facility" in Section 101(9) of CERCLA, 42 U.S.C. § 9601(9), and for purposes of this Order shall reference the locations in Jasper County, Missouri where hazardous substances have come to be located with

respect to the mining, milling, and smelting wastes located in and around any of the areas of concern identified on the Map, Appendix 1 to this Order.

i. "United States" shall mean the United States of America, and any and all agencies and instrumentalities thereof.

j. "Work" shall mean all activities Respondents are required to perform under this Order, including any activities required to be undertaken pursuant to the terms and conditions of this Order.

IV. FINDINGS OF FACT

7. The Jasper County Site, listed on the National Priorities List as the "Oronogo Duenweg Mining Belt, Jasper County, Missouri", was added to the National Priorities List by EPA in 1990.

8. The Jasper County Site includes the former mining, milling and smelting areas located in the southwest corner of Jasper County, Missouri, as shown on the Map, Appendix 1. The Site lies within an area bounded on the North by the township line between Townships 29 and 30 North, on the south by the county line between Jasper and Newton Counties, on the west by the State line between Missouri and Kansas, and on the east by the range line between Ranges 31 and 32 West.

9. The Jasper County Site is part of the Tri-State Mining District. The District was one of the largest lead-zinc mining areas in the world.

10. Ore production in Jasper County consisted of mining, milling, and smelting activities. These activities resulted in disposal of large piles of mining wastes at the Site.

11. Hazardous substances, pollutants or contaminants are released into the environment from former mining, milling, and smelting areas located within the Site. The hazardous substances, pollutants or contaminants, include, without limitation, residual metals in mining wastes such as lead, cadmium, nickel, manganese and zinc, and acid mine drainage (herein "AMD") that contains sulfuric acid, has a pH of 2.0 to 4.5 and may mobilize heavy metals.

12. The surficial wastes at the Site include, without limitation, tailings piles, slime (sump) ponds, development rock, processed mill wastes, and smelting wastes. These wastes have been found to contain hazardous substances such as lead, zinc and cadmium. The surficial mining, milling, and smelting wastes at the Site release or threaten to release hazardous substances into the environment.

13. Ground water at the Jasper County Site occurs primarily in two aquifers. The shallow aquifer consists of cherty limestone formations of Mississippian age within the ore-bearing strata. The shallow ground water is considered unconfined. On a regional basis, the shallow ground water flow is from east to west. The deep aquifer (known as the Roubidoux aquifer) occurs in cherty dolomites and sandstones of Ordovician and Cambrian ages. The deep aquifer is generally under artesian conditions

and yields from 100 to 450 gallons per minute. The ground water flow direction is generally westward. These two aquifers are the only water sources for domestic and agricultural uses by many rural residents.

14. Regionally, the shallow and deep aquifers are separated by relatively impermeable strata of shales varying from 0 to 100 feet in total thickness. In the Jasper County Site, however, the confining strata is between 0 and 20 feet thick and may be absent near the southern half of the site.

15. Leakage of ground water downward from the shallow to the deep aquifer occurs where the shales are thin or absent. The natural connection is enhanced by fractures. Other sources of recharge to the deep aquifer are the numerous wells, exploratory boreholes and shafts that penetrate the aquitard.

16. Ground water samples taken in the former mining, milling, and smelting areas at the Site indicate that residual metals from the mining wastes, including cadmium, lead, zinc and manganese, leach downward and contaminate the shallow aquifer.

17. Mine shafts and pits at the Site are potential points of recharge or entrance for hazardous substances or contaminants to reach the shallow ground water. Deep wells, borings and shafts that penetrate the deep aquifer may have become a pathway for contamination of the deep aquifer. The flooded underground mine workings may be a source of acid mine drainage, which mobilizes residual metals in the abandoned mine workings and contaminates the ground waters.

18. Under the Safe Drinking Water Act ("SDWA"), EPA has established health-based drinking water standards for cadmium and lead. The Maximum Contaminant Level ("MCL") for cadmium, established by EPA under the SDWA, is 5 ug/l. Although there is no MCL for lead under the SDWA, EPA has established an "action level" for lead under the SDWA of 15 ug/l. There are no final MCLs for zinc or manganese under the SDWA. EPA has established "Removal Action Levels" for zinc and manganese of 3000 ug/l and 200 ug/l, respectively. These levels were established in an EPA guidance document entitled "Final Guidance on Numeric Removal Action Levels for Contaminated Drinking Water Sites", OSWER Directive 9360.1-02, October 25, 1993.

19. As part of the RI/FS for the Site, Respondents collected and analyzed water samples from a number of private water wells during the summer of 1993. Results of this sampling indicate that 23 private water wells sampled by Respondents contain lead, cadmium, manganese, and/or zinc at levels which exceed the health-based drinking water standards established by EPA and listed in paragraph 18 above. Appendix 2 lists these wells and shows for each well the contaminant(s) that were identified in the sample result as being present at levels greater than the health-based drinking water standards.

20. None of the residences listed in Appendix 2 as having contaminant levels in excess of the health-based drinking water standards are connected to a public water supply.

21. As part of the RI/FS, the Respondents are conducting a private water well survey and additional sampling and analyses in order to determine if any additional private water wells at the Site contain contaminants at concentrations above health-based drinking water standards.

22. Lead bioaccumulates significantly and is a probable human carcinogen. Acute poisoning is most common in young children and may lead to permanent brain damage. Human exposure through ingestion may result in adverse health effects such as damage to the central nervous system, peripheral nervous system, and kidney and blood disorders.

23. Exposure to cadmium through ingestion may cause such effects as teratogenicity, reproductive toxicity, and kidney disorders. Cadmium is a probable human carcinogen.

24. Exposure to zinc may cause such adverse health effects as fever, vomiting, stomach cramps, and defective mineralization of bones.

25. Exposure to manganese may cause weakness, stiff muscles, and trembling hands, and may in extreme cases cause brain injury.

V. CONCLUSIONS OF LAW AND DETERMINATIONS

26. Based on the Findings of Fact set forth above, and the Administrative Record supporting this removal action, EPA has determined that:

a. The Site is a "facility" as defined at Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

b. Lead, cadmium, zinc, and manganese are "hazardous substances" as defined in Section 101(14) of CERCLA, 42 U.S.C. § 9601(14).

c. The conditions at the Site constitute an actual or threatened release of hazardous substances into the environment at the Site as defined in Sections 101(8) and (22) of CERCLA, 42 U.S.C. §§ 9601(8) and (22).

d. Each Respondent is a "person" as defined by and within the meaning of Sections 101(21) and 107(a)(3) of CERCLA, 42 U.S.C. §§ 9601(21) and 9607(a)(3).

e. Respondents are, or were, "owners or operators" of property and/or mining operations during the time when mining, milling, and smelting wastes were disposed at the Jasper County Site and/or Respondents arranged for disposal of such wastes at the Site, and, therefore, each is liable pursuant to Section 107(a) of CERCLA, 42 U.S.C. § 9607(a).

f. The actual or threatened release of hazardous substances from the Site may present an imminent and substantial endangerment to the public health, welfare, or the environment within the meaning of Section 106(a) of CERCLA, 42 U.S.C. § 9606(a).

g. The conditions present at the Site constitute a threat to the public health, welfare, or the environment based upon the factors set forth in Section 300.415(b)(2) of the NCP, 40 C.F.R. Part 300. These factors include the following:

i. actual or potential exposure to hazardous substances by nearby human populations, animals or the food chain from hazardous substances;

ii. actual or potential contamination of drinking water supplies.

h. The removal actions required by this Order are necessary to protect the public health, welfare, or the environment and are consistent with the NCP and CERCLA.

VI. ORDER

27. Based upon the foregoing Findings of Fact, Conclusions of Law, Determinations, and the Administrative Record for this Site, EPA hereby orders that Respondents comply with the following provisions, including but not limited to all attachments to this Order, all documents incorporated by reference into this Order, and all schedules and deadlines in this Order, attached to this Order, or incorporated by reference into this Order, and perform the following actions:

28. Notice of Intent to Comply. Each Respondent shall notify EPA in writing within 5 days after the effective date of this Order of its irrevocable intent to comply with this Order. Failure of any Respondent to provide such notification within this time period shall be a violation of this Order by such Respondent.

29. Designation of Contractor and Project Coordinators.

a. Respondents shall perform the removal action themselves or retain a contractor to perform the removal action.

Respondents shall notify EPA of Respondents' qualifications or the name and qualifications of such contractor within (7) days of the effective date of this Order. Respondents shall also notify EPA of the names and qualification(s) of any other contractors or subcontractors retained to perform the removal action under this Order at least 7 days prior to commencement of such removal action. EPA retains the right to disapprove of any, or all, of the contractors and/or subcontractors retained by the Respondents. If EPA disapproves of a selected contractor, Respondents shall retain and notify EPA of its selection of a different contractor or notify EPA that it will perform the removal action itself within 5 days following EPA's disapproval.

b. Within 7 days after the effective date of this Order, the Respondents shall designate a Project Coordinator who shall be responsible for administration of all the Respondents' actions required by the Order. Respondents shall submit the designated coordinator's name, address, telephone number, and qualifications to EPA. To the greatest extent possible, the Project Coordinator shall be readily available during site work. EPA retains the right to disapprove of any Project Coordinator named by the Respondents. If EPA disapproves of a selected Project Coordinator, Respondents shall retain a different Project Coordinator and shall notify EPA of that person's name and qualifications within 7 days following EPA's disapproval. Receipt by Respondents' Project Coordinator of any notice or

communication from EPA relating to this Order shall constitute receipt by all Respondents.

c. The EPA has designated Mark Doolan of the Superfund Branch, EPA Region VII, as its Project Coordinator. Respondents shall direct all submissions required by this Order to the Project Coordinator at the following address:

Mark Doolan
Project Coordinator, Jasper County Site
Superfund Branch
726 Minnesota Avenue
Kansas City, Kansas 66101
(913) 551-7169

d. EPA and Respondents shall have the right to change their designated Project Coordinators. Verbal notice of such change shall be provided to the other party within twenty-four (24) hours of such change and written notice shall follow within five (5) days of such change. Any such change by Respondents is subject to EPA approval as set forth in Paragraph 29.b., above.

30. Within ten (10) days of the effective date of this Order, Respondents or Respondents' contractor shall begin to provide bottled water to each of the residences listed in Appendix 2.

31. Respondents shall ensure that the residences listed in Appendix 2 continue to regularly receive a supply of bottled water sufficient to satisfy domestic drinking and cooking needs, until EPA notifies Respondents in writing that provision of the bottled water is no longer necessary.

32. Respondents' obligation under this Order to provide bottled water to a residence listed in Appendix 2 shall terminate

if Respondents demonstrate to EPA's satisfaction, through submittal of sampling and analysis data, that tap water at the residence does not contain any of the following contaminants at concentrations above the following action levels:

Lead	15 ug/l
Cadmium	5 ug/l
Zinc	3000 ug/l
Manganese	200 ug/l

Any sampling and analyses performed by Respondents and submitted to EPA pursuant to this Paragraph shall be performed in accordance with Section VII of this Order.

33. EPA will review any sampling and analyses data submitted by Respondents pursuant to Paragraph 32 to verify that the contaminant concentrations are below the action levels listed in Paragraph 32 and to ensure that the sampling and analyses was performed in accordance with Section VII of this Order. Respondents shall submit with the data documentation of the sampling and analysis procedures used by Respondents. Following such review, EPA will notify Respondents in writing as to whether Respondents' obligation to provide bottled water to any residence is terminated.

34. Pursuant to the August 2, 1991 RI/FS Administrative Order on Consent, Respondents will be submitting to EPA a report containing results of a well survey and additional private well water sampling and analysis data. Following EPA review of that report, EPA will notify Respondents in writing of any additional residences to whom Respondents shall provide bottled water. Respondents shall provide bottled water to any residences which:

(1) have a private water well that is the primary source for drinking or cooking water at the residence, and (2) at the tap, have contaminants present at levels above the action levels listed in Paragraph 32 above. Respondents shall begin providing bottled water to such residences within 10 days of receipt of written notification from EPA that provision of bottled water is required.

VII. QUALITY ASSURANCE AND SAMPLING

35. All sampling and analyses submitted to EPA by Respondents pursuant to this Order shall be performed in conformance with EPA direction, approval, and guidance regarding sampling, quality assurance/quality control (QA/QC), data validation, and chain of custody procedures. Respondents shall ensure that any laboratory used to perform the analyses participates in a QA/QC program that complies with the appropriate EPA guidance. Respondents shall follow the following documents as appropriate as guidance for QA/QC and sampling: "Quality Assurance/Quality Control Guidance for Removal Activities: Sampling QA/QC Plan and Data Validation Procedures," OSWER Directive Number 9360.4-01; "Environmental Response Team Standard Operating Procedures," OSWER Directive Numbers 9360.4-02 through 9360.4-08.

36. Upon request by EPA, Respondents shall have such a laboratory analyze samples submitted by EPA for quality-assurance monitoring. Respondents shall provide to EPA the quality assurance/quality control procedures followed by all sampling

teams and laboratories performing data collection and/or analysis.

37. Upon request by EPA, Respondents shall allow EPA or its authorized representatives to take split and/or duplicate samples of any samples collected by Respondents while performing actions under this Order. Respondents shall notify EPA not less than 2 days in advance of any sample collection activity. EPA shall have the right to take any additional samples that it deems necessary.

VIII. REPORTING

38. Progress Reports. Respondents shall submit quarterly written progress reports to EPA concerning actions undertaken pursuant to this Order. The first progress report shall be submitted by January 31, 1994, and the quarterly reporting shall continue until termination of this Order, unless otherwise directed in writing by the EPA Project Coordinator. These reports shall describe all significant developments during the preceding period, including the actions performed and any problems encountered, analytical data received during the reporting period, and the developments anticipated during the next reporting period, including a schedule of work to be performed, anticipated problems, and planned resolutions of past or anticipated problems.

39. Final Report. Within 30 days after completion of all removal actions required under this Order, the Respondents shall submit for EPA review a final report summarizing the actions

taken to comply with this Order. The final report shall conform, at a minimum, with the requirements set forth in Section 300.165 of the NCP entitled "OSC Reports". The final report shall include a good faith estimate of total costs or statement of actual costs incurred in complying with the Order, a presentation of the analytical results of all sampling and analyses performed, and accompanying appendices containing all relevant documentation generated during the removal action (e.g., invoices, bills, and contracts). The final report shall also include the following certification signed by a person who supervised or directed the preparation of that report:

Under penalty of law, I certify that to the best of my knowledge, after appropriate inquiries of all relevant persons involved in the preparation of the report, the information submitted is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

IX. ACCESS TO PROPERTY AND INFORMATION

40. Respondents shall obtain access to the Site and off-site areas to which access is necessary to implement this order, and provide access to all records and documentation related to the conditions at the Site and the action conducted pursuant to this Order. Respondents shall submit to EPA, upon request, the results of all sampling or tests and all other data generated by Respondents or their contractor, or on the Respondents' behalf during implementation of this Order. Respondents shall use their best efforts to obtain all necessary access agreements within 10 days after the effective date of this Order, or as otherwise

specified in writing by the EPA Project Coordinator. Respondents shall immediately notify EPA if after using their best efforts they are unable to obtain such agreements. Respondents shall describe in writing their efforts to obtain access. EPA may then assist Respondents in gaining access, to the extent necessary to effectuate the removal actions described herein, using such means as EPA deems appropriate. EPA reserves the right to seek reimbursement from Respondents for all costs and attorney's fees incurred by the United States in obtaining access for Respondents.

X. RECORD RETENTION, DOCUMENTATION, AVAILABILITY OF INFORMATION

41. Respondents shall preserve all documents and information relating to work performed under this Order for five years following completion of the removal actions required by this Order. At the end of this five year period and 30 days before any document or information is destroyed, Respondents shall notify EPA that such documents and information are available to EPA for inspection, and upon request, shall provide the originals or copies of such documents and information to EPA. In addition, Respondents shall provide documents and information retained under this Section at any time before expiration of the five year period at the written request of EPA.

42. Respondents may assert a business confidentiality claim pursuant to 40 C.F.R. § 2.203(b) with respect to part or all of any information submitted to EPA pursuant to this Order, provided such claim is allowed by section 104(e)(7) of CERCLA, 42 U.S.C. §

9604(e)(7). Analytical and other data specified in section 104(e)(7)(F) of CERCLA shall not be claimed as confidential by the Respondents. EPA shall only disclose information covered by a business confidentiality claim to the extent permitted by, and by means of the procedures set forth at, 40 C.F.R. Part 2, Subpart B. If no such claim accompanies the information when it is received by EPA, EPA may make it available to the public without further notice to Respondents.

XI. COMPLIANCE WITH OTHER LAWS

43. Respondent shall perform all actions required pursuant to this Order in accordance with all applicable local, state, and federal laws and regulations except as provided in CERCLA section 121(e) and 40 C.F.R. section 300.415(i). In accordance with 40 C.F.R. § 300.415(i), all on-site actions required pursuant to this Order shall, to the extent practicable, as determined by EPA, considering the exigencies of the situation, attain applicable or relevant and appropriate requirements (ARARs) under federal environmental, state environmental, or facility siting laws.

XII. EMERGENCY RESPONSE AND NOTIFICATION OF RELEASES

44. If any incident, or change in site conditions, during the actions conducted pursuant to this Order causes or threatens to cause an additional release of hazardous substances from the Site or an endangerment to the public health, welfare, or the environment, the Respondents shall immediately take all

appropriate action. The Respondents shall take these actions in accordance with all applicable provisions of this Order, in order to prevent, abate or minimize such release or endangerment caused or threatened by the release. Respondents shall also immediately notify the EPA Project Coordinator of the incident or site conditions. If Respondents fail to take action, then EPA may respond to the release or endangerment and reserve the right to pursue cost recovery.

45. In addition, in the event of any release of a hazardous substance, Respondents shall immediately notify EPA's OSC and the National Response Center at telephone number (800) 424-8802. Respondent(s) shall submit a written report to EPA within seven (7) days after each release, setting forth the events that occurred and the measures taken or to be taken to mitigate any release or endangerment caused or threatened by the release and to prevent the reoccurrence of such a release. This reporting requirement is in addition to, not in lieu of, reporting under CERCLA section 103(c) and section 304 of the Emergency Planning and Community Right-To-Know Act of 1986, 42 U.S.C. Sections 11001 et seq.

XIII. AUTHORITY OF THE EPA PROJECT COORDINATOR

46. EPA's Project Coordinator shall be responsible for overseeing the implementation of this Order. EPA's Project Coordinator shall have the authority vested in a Remedial Project Manager ("RPM") and an On-Scene Coordinator ("OSC") by the NCP, including authority to halt, conduct, or direct any work required

by this Order, or to direct any other response action undertaken by EPA or Respondents at the site. Absence of EPA's Project Coordinator from the site shall not be cause for stoppage of work unless specifically directed by EPA's Project coordinator.

XIV. ENFORCEMENT: PENALTIES FOR NONCOMPLIANCE

47. Violation of any provision of this Order may subject Respondents to civil penalties of up to twenty-five thousand dollars (\$25,000) per violation per day, as provided in section 106(b)(1) of CERCLA, 42 U.S.C. § 9606(b)(1). Respondents may also be subject to punitive damages in an amount up to three times the amount of any cost incurred by the United States as a result of such violation, as provided in section 107(c)(3) of CERCLA, 42 U.S.C. § 9607(c)(3). Should Respondents violate this Order or any portion hereof, EPA may carry out the required actions unilaterally, pursuant to section 104 of CERCLA, 42 U.S.C. § 9604, and/or may seek judicial enforcement of this Order pursuant to section 106 of CERCLA, 42 U.S.C. § 9606.

XV. RESERVATION OF RIGHTS

48. Except as specifically provided in this Order, nothing herein shall limit the power and authority of EPA or the United States to take, direct, or order all actions necessary to protect public health, welfare, or the environment or to prevent, abate, or minimize an actual or threatened release of hazardous substances, pollutants or contaminants, or hazardous or solid waste on, at, or from the Site. Further, nothing herein shall

prevent EPA from seeking legal or equitable relief to enforce the terms of this Order, from taking other legal or equitable action as it deems appropriate and necessary, or from requiring the Respondents in the future to perform additional activities pursuant to CERCLA or any other applicable law. EPA reserves the right to bring an action against Respondents under Section 107 of CERCLA, 42 U.S.C. § 9607, for recovery of any response costs incurred by the United States related to this Order or the Site and not reimbursed by Respondents.

XVI. OTHER CLAIMS

49. By issuance of this Order, the United States and EPA assume no liability for injuries or damages to persons or property resulting from any acts or omissions of Respondents. The United States or EPA shall not be deemed a party to any contract entered into by the Respondents or their directors, officers, employees, agents, successors, representatives, assigns, contractors, or consultants in carrying out actions pursuant to this Order.

50. This Order does not constitute a pre-authorization of funds under section 111(a)(2) of CERCLA, 42 U.S.C. § 9611(a)(2).

51. Nothing in this Order shall constitute a satisfaction of or release from any claim or cause of action against the Respondents or any person not a party to this Order, for any liability such person may have under CERCLA, other statutes, or the common law, including but not limited to any claims of the

United States for costs, damages and interest under Sections 106(a) and 107(a) of CERCLA, 42 U.S.C. §§ 9606(a) and 9607(a).

XVII. MODIFICATIONS

52. Modifications to any plan or schedule may be made in writing by the EPA Project Coordinator or at the EPA Project Coordinator's oral direction. If the Project Coordinator makes an oral modification, it will be memorialized in writing within 7 days; provided, however, that the effective date of the modification shall be the date of the Project Coordinator's oral direction. The rest of the Order, or any other portion of the Order may only be modified in writing by signature of the Regional Administrator of EPA Region VII.

53. If Respondents seeks permission to deviate from any approved plan or schedule, Respondents' Project Coordinator shall submit a written request to EPA for approval outlining the proposed modification and its basis.

54. No informal advice, guidance, suggestion, or comment by EPA regarding reports, plans, specifications, schedules, or any other writing submitted by the Respondents shall relieve the Respondents of their obligation to obtain such formal approval as may be required by this Order, and to comply with all requirements of this Order unless it is formally modified.

XVIII. NOTICE OF COMPLETION

55. When EPA determines, after EPA's review of the Final Report, that all removal actions have been fully performed in accordance with this Order, EPA will provide notice to the Respondents. If EPA determines that any removal actions have not been completed in accordance with this Order, EPA will notify the Respondents, provide a list of the deficiencies, and require that Respondents modify the Work Plan to correct such deficiencies. The Respondents shall implement the modified and approved Work Plan and shall submit a modified Final Report in accordance with the EPA notice. Failure by Respondents to implement the approved modified Work Plan shall be a violation of this Order.

XIX. OPPORTUNITY TO CONFER

56. Within 3 days after issuance of this Order, Respondents may request a conference with EPA. Any such conference shall be held within 5 days after the effective date of the Order. At Respondents' request, the conference may be telephonic. If the conference is not telephonic, the conference shall occur at the offices of EPA Region VII, 726 Minnesota Avenue, Kansas City, Kansas.

57. The purpose and scope of the Conference shall be limited to issues involving the implementation of the removal actions required by this Order and the extent to which the Respondents intend to comply with this Order. This conference is not an evidentiary hearing, and does not constitute a proceeding to challenge this Order. It does not give Respondents a right to

seek review of this Order or to seek resolution of potential liability, and no official stenographic record of the conference will be made.

58. Regardless of whether a conference is held, Respondents may submit any information, arguments or comments in writing to EPA within 5 days following issuance of the Order.

59. Requests for a conference shall be made by telephone followed by written confirmation mailed or faxed to :

David Cozad
Associate Regional Counsel
EPA Region VII
726 Minnesota Avenue
Kansas City, Kansas 66101.
Telephone (913) 551-7587
FAX (913) 551-7925

XX. SEVERABILITY

60. If a court issues an order that invalidates any provision of this Order or finds that Respondents have sufficient cause not to comply with one or more provisions of this Order, Respondents shall remain bound to comply with all provisions of this Order not invalidated or determined to be subject to a sufficient cause defense by the court's order.

XXI. EFFECTIVE DATE

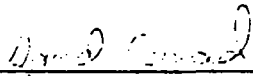
61. This Order shall be effective the day after it is signed by the Regional Administrator.

IT IS SO ORDERED

BY: 

William Rice
Acting Regional Administrator
Region VII
U.S. Environmental Protection Agency

DATE: 12/16/93

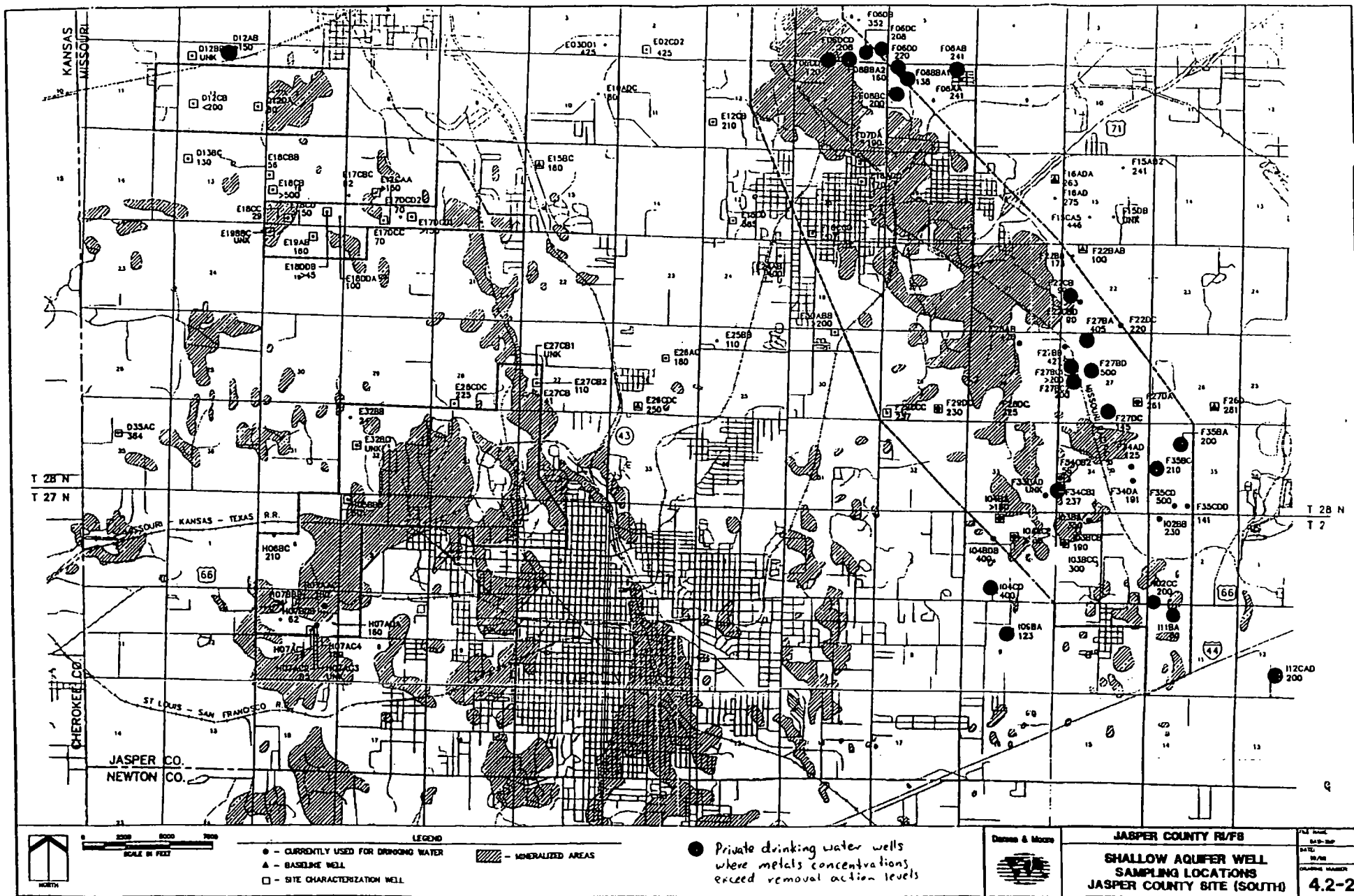

David Cozad
Associate Regional Counsel
Region VII
U.S. Environmental Protection Agency

DATE: 12/17/93

EFFECTIVE DATE: _____

Unilateral Administrative Order
Docket No. VII-94-F-0003

FIGURE 1



APPENDIX 2

SUMMARY OF GROUNDWATER RESULTS FOR WELLS WITH HIGH CONCENTRATIONS OF CADMIUM, LEAD, MANGANESE, OR ZINC

Station ID	Name	Address	Phone	Date Sampled	Cadmium(mg/l)	Lead(mg/l)	Manganese(mg/l)	Zinc(mg/l)
E 12 CB	JACK & JOANN MCKIBBEN	BOX 104-B	673-3275	5/22/93	0.01			
		WEBB CITY		9/11/93	0.01			
F 06 CD	ELSEA PENDERGRAFT	RT.1 BOX 64	673-2663	6/15/93	0.008			
		WEBB CITY		9/8/93	0.022			
F 06 DC	EMERY & NEOMA SPICER	RT.1 BOX 63A	673-4527	6/15/93	0.011			
		WEBB CITY		9/8/93	0.058			
F 06 DCD	CHARLES & VIRGINIA SPICER	RT.1 BOX 63E	673-4527	6/15/93	0.09	0.03		
		WEBB CITY		9/8/93				
F 06 DD	JOHN & JOSEPHINE SPICER	BOX 427	673-3546	6/16/93	0.08			8.95
		WEBB CITY		9/8/93	0.04			9.45
F 06 AB	ERNEST GOAD	RT.1 BOX 356	673-4055	6/19/93	0.03			
		WEBB CITY		9/8/93	0.04			
F 06 BBA1	LLOYD O'BANION	RT.1 BOX 17G	673-2851	6/17/93	0.073	0.035	5.72	9.65
		WEBB CITY		9/8/93	0.088	0.046	5.32	9.9
F 06 BBA2	MARCH & LARRY KEAN	RT.1 BOX 17G	673-5768	6/19/93	0.026	0.03	4.22	9.7
		WEBB CITY		9/8/93	0.095	0.036	4.23	10.1
F 06 BC	STEVE PAGE	RT.1	NO PHONE	6/19/93	0.011			
		WEBB CITY		9/8/93	0.031			3.28
F 22 CB	GARY & PAT SHADE	RT.1 BOX 435	673-4112	5/20/93	0.011			
		JOPLIN		9/10/93	0.0145			
F 27 BA	BENNY JR. & BRENDA COPHER	RT.1 BOX 454	673-1328	5/20/93				
		JOPLIN		9/7/93		0.046	0.25	
F 27 BC1	JANICE HILL	RT.1 BOX 492	673-4401	6/18/93	0.025	0.1	0.25	12.5
		JOPLIN		9/7/93	0.22	0.12		14.5
F 27 BC2	PAUL & LARRY TAYLOR	RT.1 BOX 489	673-5444	5/20/93	0.12			6.55
		JOPLIN		9/7/93	0.036	0.037		6.6
F 27 BD	BILLY G. & JEAN PEPPER	2802 MINNESOTA	623-5828	5/21/93	0.02			4.3
		JOPLIN		9/10/93	0.021			3.74
F 27 DC	BILLY G. & JEAN PEPPER	2802 MINNESOTA	623-5828	5/20/93	0.05		0.44	5.98
		JOPLIN		9/7/93		0.06	0.46	6.6
F 34 CB1	BEN & ROSEMARY SUMMERS	RT.1 BOX 95	623-7955	5/21/93	0.038			3.31
		JOPLIN		9/9/93	0.034		0.21	8.4
F 35 BA	DWIGHT & MARY HARPER	RT.4 BOX 460	623-7796	5/24/93	0.013			
		CARTHAGE		9/12/93	0.0155			
F 35 BC	MICHAEL & MARGARET PERRY	RT.4 BOX 670	624-1091	5/22/93	0.021	0.045		
		CARTHAGE		9/11/93	0.063	0.07		
I 02 CC	GERALD & SHIRLEY TUCKER	RT.6 BOX 171	673-5953	5/25/93	0.044			
		JOPLIN		9/10/93	0.056	0.045		
I 04 CD	KEVIN MANARD	RT.7 BOX 167	623-5283(H) 624-7227(W)	5/26/93	0.02	0.03		
		JOPLIN		9/9/93	0.009	0.045		
I 09 BA	WILLIAM (DAVE) JUNGHANS	RT.7 BOX 289	624-3108	5/25/93	0.03	0.21	6.88	21.8
		JOPLIN		9/9/93	0.1	0.29	6.3	21.7
I 11 BA	JAMES NICHOLS	RT.7 BOX 211	781-9357	5/25/93	0.006		1.12	
		JOPLIN		9/9/93			1.24	
I 12 CAD	MIKE NEWCOMB	RT.8 BOX 256A	624-3279	5/25/93	0.2			
		JOPLIN		9/7/93	0.04			